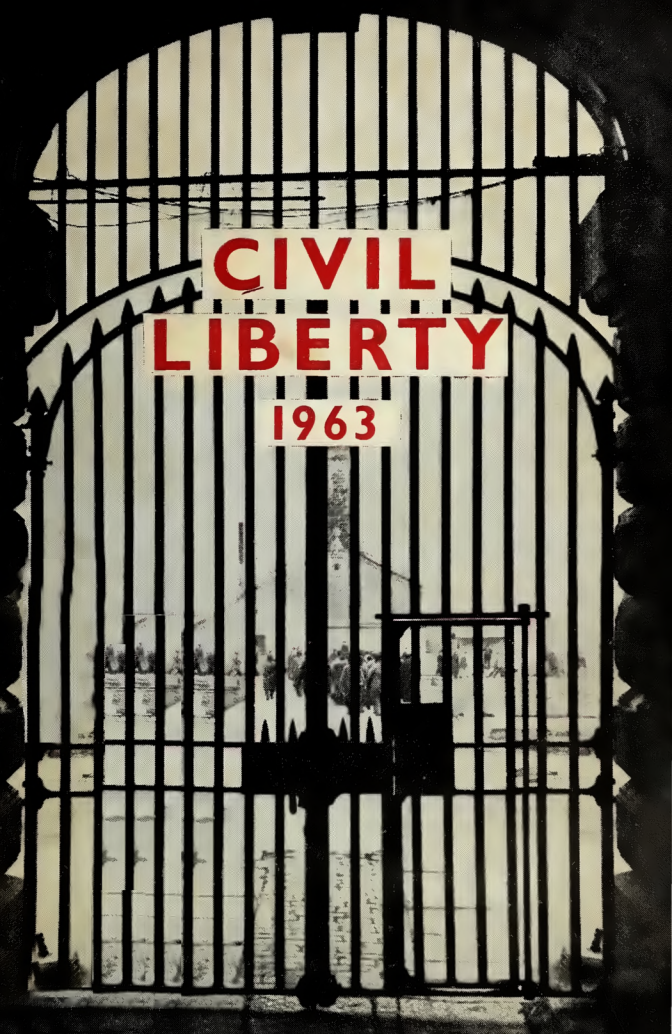




# CIVIL LIBERTY

1963



## ACKNOWLEDGEMENTS

The work of the National Council for Civil Liberties is essentially a co-operative effort of specialists and laymen, of M.P.s and doctors, educators and administrators. The small staff in the office does little more than co-ordinate the efforts of the volunteers who work regularly throughout the year in dealing with cases, preparing documents and doing research. Similarly any publication of this nature is inevitably a joint enterprise. However this year we are particularly indebted to Dr. Cyril Bibby for his contribution on Race Prejudice and Education, an article which should be read by all who oppose prejudice and wish to do something about it.

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# FOREWORD

By MALCOLM B. PURDIE

*Chairman, National Council for Civil Liberties*

*The year 1962-63 has been one of growing awareness in many sectors. The Council has helped this progress by its Press statements and pamphlets such as "Arrest" and "Civil Liberty and the Police."*

*During the past twelve months the satirists have echoed public feeling and unease and given a technique to comment. We find today that comment by the electors on the elected, on the old and the young, on education, on health, on sex and language has grown, and brings home to us all that free speech is not enough as a principle: it must be demonstrated in practice. We have heard much of a free Press, and with more public comment and pressure the Press can be more free. We have heard of Civil Liberty in more editorials than usual and we hope this means a growing knowledge of Civil Liberty – and not merely a sectional interest in the Press and its liberty.*

*After the breakdown of the Common Market talks there was a feeling engendered in many of our people that we were a nation of lost souls. Happily, this has been mainly overcome and a new virility has been developing in our democratic thought and discussion. Otherwise a carelessness over rights and liberties can become a breeding ground for those who would attack our general conception of Civil Liberty. This Council has a duty to resist any attempts by continually spotlighting any infringements.*

*All our members and affiliated organisations will have received copies of our special appeal for funds. On behalf of the Executive Committee I would like to thank those who have sponsored our appeal. I hope that all our members and affiliated organisations will also express thanks to our appeal organisers by seeing that the target of £10,000 is reached.*

*Last year I said, "We must at all times remember that Civil Liberty can only exist when it can be enjoyed by all." An acceptance of this concept carries the responsibility that for Civil Liberty to be enjoyed by all it must equally be defended by all.*



## SECURITY

IN "Civil Liberty 1962," the Council said that security measures "should be used only to the minimum extent that is necessary and that there should be reasonable safeguards to prevent injustice being done to the individual." During the last twelve months the situation has become much worse.

An instance was given in 1962 of Mr. C. – an engineer and a member of the A.E.U. The struggle on his behalf still goes on. Mr. Eric Lubbock, M.P., secretary of the Civil Liberties Group of M.P.s is pursuing the case with the Minister of Aviation in the attempt to secure justice for Mr. C.

Another engineer and member of the A.E.U., Mr. Peter Ware, of Southampton, has been dismissed from his employment at the direction of the Minister for Science. Mr. Ware is an avowed and active member of the Communist Party; his employers have a factory organised in quite separate parts. One part is engaged on work for the Atomic Energy Authority and this part is under very strict security control. Mr. Ware was employed in the other part and at no time had anything to do with the "secret" part; nonetheless he has been dismissed by order of the Government. In the course of the various stages of fighting this case, the only concrete point made by an officer of the Minister for Science was that Mr. Ware would in the canteen and in the lavatories meet workers from the secret establishment. So he does now, of course, at his A.E.U. branch meetings and in the normal way of social life. This is sheer persecution to no good end and should be stopped.

The Report of the Radcliffe Committee (1962) has resulted in a campaign against the officers of Civil Service trade unions. The Report says: "No evidence has been brought to our knowledge that Communist union officers, whether serving on a paid or unpaid basis, have been detected in any form of espionage."

Despite this conclusion the Committee went on to recommend that Departments should deny access to or refuse to negotiate with any trade union official whom it has reason to believe to be a Communist or Communist-sympathiser. This recommen-

dation has been accepted and operated by the Government without any debate in either House of Parliament.

The result so far has been the "naming" of officers of at least four Civil Service unions and, so far, two officers have been required to resign. Most of the officers "named" were not members of the Communist Party but the tag of "associated with" is wide enough to bring in wide ranges of people. Each of these officers had long years of devoted service to Civil Service trades unionism and in no case has there been even a suggestion of improper behaviour in relation to their work. This is "security" gone mad. In the industrial civil service, this has led to the management informing the unions at one northern Royal Ordnance Factory that a particular man was "unacceptable" as a shop steward. In the south of the country, in one of the War Department Inspectorates, a man was said to be "unacceptable" as secretary of the Joint Industrial Council.

Inevitably, security precautions become a weapon in the Cold War. Even so, the Council had not anticipated that civil servants would be required to report to their Department if at any time they were found guilty of social contact, e.g., the buying of a drink, with a member of the embassy of any of the countries behind the Iron Curtain or even of Yugoslavia or Cuba. It has now happened. An office notice issued in the Board of Trade requests "all staff" to report, not only social contacts with "nationals of the Sino-Soviet Bloc" but *any* social contacts with officials of *any* other countries in "circumstances which appear suspicious."

The notice is marked "restricted" – which means it must not be disclosed outside the Department. Do the security forces really think they can issue thousands of copies of such a circular through the Civil Service and that no-one will take steps to see that public attention is drawn to so silly and mischievous a document?

## MISS FELL

How vicious can be the pursuit of individuals in the name of "security" is illustrated by the prosecution of Miss Barbara Fell. Miss Fell was guilty of a serious official offence in making known to a member of the embassy of another country the contents of some confidential documents; at no stage has anyone suggested that these documents had any relationship to the security of the state. There is no doubt that Miss Fell's action



merited disciplinary action and possibly dismissal. In fact, she is prosecuted under the Official Secrets Acts and imprisoned for two years. The Official Secrets Acts are supposed to deal with spying and indeed when the 1920 Act was before Parliament, law officers of the Crown went out of their way to assure the Commons that the Act would not and could not be used to deal with anything except spying. And yet it is the Law Officers of the Crown who took the case against Miss Barbara Fell.

When Members of Parliament became suspicious about the possible uses of the Act in 1920, they pressed for explanations of some of the clauses which appeared to go beyond the purposes required for dealing with espionage. The Attorney-General, Sir Gordon Hewart, reassured the House with the following words:

"This Bill has nothing to do with opinion. It is aimed at spying and the acts of spies, their accomplices and assistants . . . It could never be contended that in a Bill to amend the Official Secrets Act, 1911, the words 'prejudicial to the interests of the State' refer to something of a different character from that which was being dealt with in 1911, which is the matter of spying . . . It would be, in my submission, hopeless to maintain that these words had any other or larger meaning."

Despite these assurances however there were several prosecutions under the Act during the 30's. Mr. Duncan Sandys was himself implicated in a case, as was Mr. Compton Mackenzie. Some letters from Lord Nelson to the British Ambassador in Paris between 1815 and 1830 were withdrawn from sale at Sotheby's in 1935 because they were "official secrets" of the sort that the 1920 Act was designed to protect. Mr. Edgar Lansbury was prosecuted for publishing some cabinet papers of his father, George Lansbury.

The whole field of security and secrets is fraught with civil liberty pitfalls. To suggest that someone is acting against the interests of the State immediately prejudices the public and the Press. Compton Mackenzie has said: "Any man accused of violating the Official Secrets Act in whatever ridiculous way runs the risk of creating in the public mind a prejudice against himself." And that was in 1938 when security procedures were virtually non-existent.

The questions to which we have no satisfactory answers are: Who decides what is secret and who checks on the wisdom of that decision? Who decides what is in the interest of the State and who can check the wisdom of the decision?

And, finally, when does a "secret" cease to be a secret? How many people have to share the knowledge before communicating it ceases to be a crime?

Who decides that material is now no longer secret; is it the "officials" or is it the courts?

The whole field of security is a prime example of what *The Times* described on March 18th, 1963, as "the Executive taking over from Parliament. It rules or fails to rule by tacit agreement with outside forces in the community that their authority also shall not be challenged." Unfortunately, neither *The Times* nor any other papers have fought the battle of security with the vigour which their proud traditions would justify.

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## TRAFALGAR SQUARE

TRAFALGAR SQUARE became a legitimate meeting place in 1892, a few years after the events now known as "Bloody Sunday," when, in spite of a ban, the Social Democratic Federation staged a demonstration of the unemployed in the Square, at which fighting broke out with the police. (Meetings had been held in the Square since the times of the Chartists at least, but without official acknowledgement of their right.) The Home Secretary announced that meetings could be held on Saturdays, Sundays or Bank Holidays, one at a time only, and that organisers had to send written notice of the meeting to the Commissioner of Police at least four days beforehand. There was thus no question of obtaining permission.

At some time between 1937 and 1952, however, the rules were revised, and the following clause was inserted: "The Ministry of Works will consult the Commissioner of Police of the Metropolis . . . before giving permission for a meeting to be held."

In 1952, regulations were issued prohibiting the following acts, unless written permission of the Minister has been obtained:

Organising, conducting, or taking part in any assembly, parade or procession.

Making or giving a public speech or address.

Selling or distributing or offering anything for sale or hire.

In fact, although organisers of meetings at first experienced some difficulties over the sale of their literature in the Square, there is no record of permission for meetings in the Square being withheld in this period. In 1958, permission was refused to C.N.D. to hold a rally on Good Friday, as this was not a Bank Holiday, but it was later granted and indeed the then Minister of Works stated:

“It was never the intention that my powers to allow or disallow meetings in Trafalgar Square should be used as some kind of censorship on the kind of meetings held.” (*The Times*, 26.2.58).

In 1959, the Square was closed to the public on Guy Fawkes night, although the Council protested that the London police were perfectly capable of preventing hooliganism without this action.

### PERMISSION REFUSED

In 1961, the Ministry of Works refused permission to hold a rally in the Square on September 17th, prior to a sit-down in Parliament Square. This was a clear contravention of the traditional freedom of assembly in Trafalgar Square, since no illegal act was contemplated in the Square. In spite of protests the ban was not withdrawn. The Committee announced that they would proceed with their rally, and if prevented from entering the Square would sit down. A ban on their activities in Central London was then imposed, under the Public Order Act. Public opinion was aroused, and a mass demonstration took place in the Square, at which much violence resulted (see N.C.C.L. publication, “Public Order and the Police”).

In 1962, the position further worsened. In July, the Minister again refused a booking to the Committee of 100, “in the absence of written assurances that the meeting would not be used to advocate or advertise by speech or in the distribution of literature a future act of civil disobedience.” (*The Times*, 4.7.62).

In the same month there were disturbances at a meeting of the National Socialist Movement, and a public outcry at the anti-semitic speeches made. The Minister of Works refused them a second booking in August, and also banned meetings of the British National Party and the Union Movement, saying:

“It would not be right to grant facilities for these meetings

to be held in Trafalgar Square at a time of year when there are likely to be numbers of holidaymakers and other visitors in the Square." (*The Times*, 15.8.62). The N.C.C.L. again protested that the ban was a misuse of the Minister's powers, and set a precedent for political censorship of meetings, without solving the problem of incitement to racial and religious hatred. This warning was justified a week later when the Minister refused a booking to the Yellow Star Movement, whose aims are "for human brotherhood."

## CRUSH BARRIERS

During the Cuba crisis of October 1962, crush barriers were erected in Trafalgar Square for rallies held on the 27th and 28th October. These barriers cordoned off the space round the plinth and cut out a large area down the middle part of the Square which holds the body of the audience, forcing them to stand near the fountains and beneath the spray from these. The barriers were erected by the Commissioner of Police, but presumably with the permission of the Ministry of Works.

In November 1962, the Anti-Apartheid Movement applied to the Minister of Works to book the Square for a rally in March 1963. The reply from the Ministry pointed out that as the Home Secretary was considering amendment of the Public Order Act in the light of the disturbances of the summer, they were not able to state their policy for the future and so had to postpone a decision.

The Rally took place in March 1963, but crush barriers reduced considerably the space available and although the fountains were turned down the water still sprayed an area of 15 square yards near each basin and the area of the audience was still further reduced.

Thus the position has deteriorated considerably from the last century when all that was required was that written notice of the meeting should be sent to the Commissioner of Police. 1962 has seen the crush barriers erected to restrict the space available, bookings refused on grounds of inconvenience to tourists, bookings refused because of the views likely to be put forward at a meeting, and finally, a ruling that no bookings may be made for more than three months in advance. The Council has discussed, through the Parliamentary group, the whole question with the Minister concerned, who has promised to hear further comment later in the year.

## RACE PREJUDICE AND EDUCATION

THE MAIN factors determining the emergence of racism as an important problem at any particular time and place are generally economic, political and social. It would, therefore, be foolish to imagine that educational measures could by themselves provide a solution to the problem. Nevertheless, in a society whose general atmosphere is not too deeply impregnated by prejudice and whose practices are not too generally discriminatory (for discrimination can foster prejudice just as prejudice can foster discrimination), a great deal can be done by education.

In the long run, a suitable educational regimen can markedly reduce the proportion of the population who have a need for any scapegoat – whether the scapegoat group actually selected be of a particular pigmentation, a particular religion or a particular politics. A free sort of education will be less likely than an authoritarian education to develop in children the frustrations, guiles, envies, fears and inadequacies which are the personality characteristics most conspicuously calling for the comfort that comes from having a scapegoat. In the short run, it is necessary to consider less general and more specific pedagogic techniques.

From quite early stages in the classroom, the teacher can positively encourage the appreciation of individual and group differences, so that her pupils get into the way of looking with friendly interest rather than with fearful uncertainty at individuals whose physique differs from their own. A simple example of this can be found in the use of appreciative emotive phrases when looking at pictures – “what a lovely brown skin!” “what interesting narrow eyes!” “what nice crinkly hair!” instead of leaving children to assume that whatever is different is inferior. Similarly, in religious instruction quite young pupils can be brought to take a genuine interest in the main features of the Jewish, Moslem and other religions rather than simply lumping them all together as non-Christian and *ipso facto* inferior. (Incidentally, how often do teachers emphasise that Jesus was a Jew? – more often children seem to think of his enemies as Jews, while his own Jewishness passes unmarked).

Higher up the school, much can be done by enlightened teaching, especially of biology, geography and history. All biology courses should include the study of human biology, which would deal objectively with the anatomical and physio-

logical characteristics of the great ethnic groups, and hence display these as *differences* rather than as *scales of merit*. Discussion of these differences would soon lead to a realisation that talk of superiority/inferiority in this context is meaningless. It would also demonstrate that certain characteristics of quite vital importance (e.g., blood grouping) cut right across the visually striking but fundamentally trivial differences of pigmentation, etc., and would demolish the idea that miscegenation is biologically harmful. Historico-geographical teaching would also demonstrate that miscegenation has been quite common in human society and (e.g., in Hawaii, in South America) has produced new and harmonious physical types of great merit. It would also delimit the social circumstances which may make miscegenation harmful (simply because socially condemned) to the offspring, and hence indicate the circular nature of the arguments often used against mixed marriages. Such teaching would also, by telling of the cultural achievements of different ethnic groups at different periods of world history, expose the fallacy of the idea that certain so-called "races" are intrinsically more or less capable of culture than others.

Education of this sort, whether in school or informally in other social groupings such as trade union branches or co-operative guilds, will never be effective if it is dishonest and evasive. One frequently meets well-meaning people who try to deal with racial prejudice by futile remarks such as "There isn't really any difference between one race and another" or by perfectly true but not very illuminating generalisations such as "After all, we're all human". Racial prejudice will not be overcome by refusing to face perfectly obvious facts: what one must do is not refuse to recognise the existence of differences but boldly assert the differences and then demonstrate that, as is indeed the case, they are insignificant compared with the basic similarities between all human beings.

Much valuable education, both curricular and incidental, can also be connected with teaching the proper use of language. Words not only serve as a tool to express meaning: they also develop a semi-autonomous power of back-reaction and hence actually affect mental attitudes. Think, for example, of the words "Yid" and "Nigger" – they mean, literally the same as "Jew" and "Negro" but their effect on both speaker and listener is derogatory. Any proper teaching of language and literature, at whatever level, should seek to sensitise people to

the many-layered emotive content of words, and he who has understood the effect of a word is half-way to immunisation against undesirable influence by it. That is why, for example, people who have understood the deep emotive content of "white" (e.g., pure, virginal, clean) will prefer to describe people of European stock as "pink" which then becomes merely another chromatic description parallel with "yellow" or "brown" or "black" with no unspoken implications of superiority.

Since any effective education to reduce social prejudice must depend on the honest recognition of differences, and the assessment and appreciation of the independent value of the differing qualities of different peoples, it is clearly inconsistent with any idea that all people should conform, to a particular pattern. On the contrary, it depends upon the fostering of the view that individual and group differences can be of value in the provision of interesting variety and the prevention of dull uniformity. And, of course, this means that such education can be fully effective only in a non-conformist, anti-authoritarian atmosphere. Which, of course, is only another way of saying that education against racial prejudice needs the support of other social measures if it is to be fully effective.

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## LEGISLATION AND RACE RELATIONS

FENNER BROCKWAY, M.P., has tried to introduce a bill for the ninth time in an attempt to deal with both racial discrimination and incitement. Although this time he has more support on both sides of the House than on any other previous occasion, even now the bill may not go through.

Although the scope of possible legislation on race relations and/or incitement to racial discrimination is clearly limited, it is possible to legislate in order to minimise the effects of racial discrimination and to lay down a general statement of national principle – a social norm backed by the authority of Parliament. We cannot, of course, legislate against a feeling of colour or racial superiority. But we can try to prevent that feeling from affecting the lives of minority racial groups.

In considering the legal position it is necessary to distinguish between racial discrimination and its effects on every-day life,

and *incitement* to racial discrimination. These two evils demand different legislation.

## RACIAL DISCRIMINATION

Fenner Brockway's bill attempts to deal with both discrimination and incitement. By Section II of the bill it would be enacted that:—

*No person shall be entitled to exercise discrimination in pursuance of any of the following occupations:—*

- (a) *Keeper of an hotel.*
- (b) *Keeper of a common lodging house.*
- (c) *Keeper of a restaurant, cafe or other place kept or used for the sale of food or drink to the public, including premises licensed for the sale of intoxicating liquors.*
- (d) *Keeper of any place kept or used for public dancing, singing, music or any public entertainment of the like kind.*

By Section III it is proposed that no lease or agreement for a lease shall be refused on the ground of racial discrimination.

From the legal point of view it must immediately be conceded that the above provisions might be difficult to enforce. So long as English law recognises the sanctity of contractual relations and the complete freedom of contract it will be very difficult to prove, for example, that a landlord who refuses to let a room to a coloured person does so because he is discriminating on grounds of race. Again, if, in the course of negotiations for a lease, a white landlord attempts to impose heavy financial conditions on a coloured tenant, it will be extremely difficult to establish that he is showing racial discrimination and not simply obeying the laws of "the system". But even though they might be difficult to enforce, Sections I, II and III of the bill do provide a valuable statement of aims and intention, and provide a standard of legal behaviour which would be enforced if necessary.

## INCITEMENT

The teeth of the bill however are in Sections IV and V which read as follows:—

*IV. Any person who incites publicly by speech or by writing or by illustration contempt or hatred of any person or persons because of their colour, race or religion shall be guilty of an offence under this Act.*



*V. Any person who prints, publishes, distributes or circulates any written matter or illustration inciting contempt or hatred of any person or persons because of their colour, race or religion shall be guilty of an offence under this Act.*

These two Sections deal with racial incitement either by speech or by writing and here the bill goes further than any other proposed legislation.

Incitement is the crucial problem which has faced us recently. The revival of anti-Semitism and the new factor of resentment against Commonwealth immigrants have given Fascist groups a new lease of life. We have been forced to reconsider the existing methods of dealing with incitement, in particular the provisions of the Public Order Act 1936. In August, 1962, Mr. Iremonger, the Conservative Member of Parliament for Ilford North, sought to amend Section V of this Act. The Act in its original form reads:—

*Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned shall be guilty of an offence.*

The Amendment proposes to add after the words “words or behaviour” the following:—

*or words inciting hatred of any racial group of Her Majesty's subjects.*

It has been argued that the Amendment is unnecessary because words inciting hatred of any racial group would be by definition “threatening, abusive or insulting words,” and that they are therefore already covered by Section V.

This argument is supported to some extent by the Court of Criminal Appeal decision in the Colin Jordan case reported in *The Times* under the headline “Jew-Baiting to be punished.” Quarter Sessions had held that Jordan's fatuous speech in Trafalgar Square, which included such choice phrases as “Hitler was right,” against a background placard saying “Free Britain from Jewish Dominance” did not amount to the use of “threatening, abusive or insulting words or behaviour whereby a breach of the peace was likely to be occasioned.” The Court of Criminal Appeal reversed this decision, the Lord Chief Justice stating that Jordan's words were deliberately intended to be insulting to the people there who were being restrained by the police. Permission has since been granted for the case to be taken by Jordan to the House of Lords.

The Jordan case as it stands at present strengthens the hands of the authorities, particularly as regards anti-Semitism, but it was decided on the particular facts and does not lessen the needs for the comprehensive provisions of Fenner Brockway's Bill.

It is also important to bear in mind that Iremonger's Amendment does not cover any written matter. Nor does it cover the publication, distribution or circulation of any written matter. Illustration can also amount to incitement. In 1962 the National Socialist Movement distributed a leaflet on which the following appeared:

Despite the Jewish lie machine . . .

Hitler was right.

Democracy means Jewish control, national decline, racial ruin.

Only National Socialism can save our race and nation.

These words accompanied a photograph of Hitler.

Under the present law and, indeed, under the Iremonger amendment there is nothing that the courts could do to prevent the distribution of such a pamphlet. But such a publication or distribution would become an offence under Section V of Brockway's Bill.

## SEDITION

It has been suggested that the existing law (i.e., the 1936 Public Order Act) taken in conjunction with the more vigorous application of the present law on sedition and seditious libel, is enough to deal with current disturbances. There are good reasons for not accepting this view. It may well be that the old crime of sedition would in theory cover the activities of Jordan's National Socialists but the crime is an ancient one and little used in recent years. So far as one can gather from the various authorities it would be dangerous to resuscitate it. It is, for example, technically seditious for a person "to excite ill will between different classes of the Sovereign's subjects or to bring into hatred or contempt the Sovereign or the government, the laws or constitution of the realm."

It is difficult to imagine anything wider or more vague. Even if to say that "Hitler was right," could technically be regarded as sedition the difficulties and dangers of reviving an ancient crime now sunk into disuse would probably be far greater than those attending the passage of either the Iremonger Amendment or Brockway's Bill.

## LEGISLATION IN OTHER COUNTRIES

Legislation against racial incitement exists in the following countries (among others): Austria, Denmark, The Federal German Republic, Greece, Italy, The Netherlands, Norway, Sweden and Switzerland. In Sweden, for example, Article 7 of the Penal Code enacts:

*Anyone who publicly threatens, slanders or libels a group of people of a certain origin or of a certain religious belief shall be punished for incitement against a group of the people by fine or imprisonment.*

By the Code of Penal Law of The Netherlands, Article 137, it was enacted that:

*Anyone deliberately and publicly expressing himself either in speech or in writing in a manner offensive to a group of the population or a group of persons belonging partly to the population is liable to imprisonment for a maximum of one year or to a fine of a maximum of 600 guilders.*

Thus Britain stands almost alone in Western Europe in not having some such legislation on the statute book. We have, too, examples in the Commonwealth. India has perhaps the strongest legislation against racial incitement.

## LEGISLATION NEEDED

Clearly what is needed is one bill which can include a general statement of principle as contained in the Basic Laws of for example Sweden, West Germany or the Netherlands, which can legislate against the effects of discrimination on the grounds of colour, race or religion, and can also deal with racial or religious incitement by words, or by writing or illustration. The measure which comes nearest to fulfilling these three aims is Mr. Fenner Brockway's Bill. It is profoundly to be hoped that this time the Bill will be passed. If it is not, then the next best thing is to press for the passing of the Iremonger Amendment to Section V of the Public Order Act of 1936.

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## DEPORTATION AND EXTRADITION

IN JULY 1961, great disquiet was caused by the "Carmen Bryan case", the first to be dealt with by the Home Secretary under Part II of the Commonwealth Immigrants Act. Twenty-

two-year-old Carmen, convicted and bound over on a first offence of shop-lifting was only saved by Parliamentary pressure from deportation after spending 47 days in Holloway gaol while the Home Office mulled over her case. As the *Observer* pointed out, not only did the Act impair one of the main principles of British justice – that all men are equal before the law – but it seemed that a second principle was to be impaired – that no one should be imprisoned without trial.

Under the Act, an immigrant who is convicted of an offence punishable by imprisonment and who is recommended for deportation has a right (a) to appeal within 14 days to the courts to have the recommendation set aside, and/or (b) to appeal to the Home Secretary to reject the recommendation. Since the Carmen case both the Courts and the Home Secretary have made statements clarifying the position in some respects.

In the recent case of *R. v. Edgehill*, reported in *The Times* of December 12th, 1962, the Court of Criminal Appeal considered in some detail the provisions relating to deportation. The *Criminal Law Review* summarised the main points:—

- (1) A recommendation for deportation (by judge or magistrate) is not intended to be part of the punishment for the offence, and should not be taken into account when assessing sentence.
- (2) An appeal may be brought against a recommendation without an appeal against the sentence (e.g., where there has been a plea of guilty to the offence charged).
- (3) It is wrong for a court to postpone sentence pending the outcome of a recommendation for deportation.
- (4) In computing the time during which the offender has been “ordinarily resident” in the U.K. (5 years to avoid liability for deportation), the interpretation of these words under the Matrimonial Causes Act applies.
- (5) For the purpose of excluding periods of six months or more spent in prison, etc., from the period of residence in this country, sentences passed by courts in the country are alone to be taken into account.

The Lord Chief Justice has also stated that legal aid should be made available to a Commonwealth citizen liable to a deportation order.

The Home Secretary, Mr. Brooke, stated on November 14th, the test he applies in deciding whether a commonwealth citizen should be deported:—

“Has the sum total of the offender’s behaviour been such

that as an act of justice he can properly be visited with the severe penalty of being uprooted from whatever associates he may have formed here and sent back, under the stigma of deportation, to start again where he came from?"

This, says the *Criminal Law Review*, seems to strike the right note, but "the conviction of the immigrant is in truth little more than an excuse for getting rid of him." It is apparent from their further comments that they share the view of many that justice has very little to do with it.

All this relates to deportation under the Commonwealth Immigrants Act, and there is little to quarrel with in the rules and sentiments expressed, once the Act itself (with its fundamental breach of the right of Commonwealth citizens to enter and remain in the Mother country) is accepted.

### "PUBLIC GOOD"

However, the Home Office must be judged by its deeds, and its recent record is disturbing. Apart from its new statutory power to deal with Commonwealth immigrants, the Home Office retains its power to deport aliens for "the public good" without reference to any court. This has been termed a "virtually limitless discretion," and its manner of exercise in the Soblen case, where the Home Office declined to reveal communications from the American Government, raises strong suspicions that political considerations play a big part in individual decisions.

Furthermore, strenuous attempts were made to ensure, not merely that Dr. Soblen was deported but that he was returned to America to face punishment for espionage. In doing this the Home Office was treating the power of deportation as akin to that of extradition although Dr. Soblen had not committed any crime for which he could be extradited from this country, and the Extradition Acts expressly exclude offences of a political character.

Extradition crimes only apply to foreign countries with whom we have Extradition Treaties, and the only power the Home Secretary has to surrender fugitive criminals is derived from the Extradition Acts under which a person against whom extradition is invoked must be brought before the Bow Street Magistrate who must be satisfied (a) that the offence alleged is within the treaty (b) is not of a political character (c) there is *prima facie* proof of guilt.

It has been suggested by *The Times* that the power to deport

aliens should be subjected to some similar judicial control, a position that obtained before 1914.

The current case of Chief Enahoro of Nigeria raises the further issue of whether the Fugitive Offenders Act 1881 does not need sharp revision. Extradition proceedings apply only to aliens, but the Fugitive Offenders Act applies rather similar provisions to Commonwealth citizens, with this vital difference that political offences are *not* excluded. Nevertheless the Home Secretary, as in the other cases, is left with considerable and final discretion as to whether the recommendations of the Courts or the requests of other Governments are to be complied with.

It is a question whether any Home Secretary in today's conditions, subject to powerful political pressures at home and abroad is the proper person to exercise such a discretion. But it is certain that citizens from Commonwealth countries should not be at a disadvantage in relation to citizens from other countries and therefore some revision of the Fugitive Offenders Act 1881 is an urgent necessity.

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## MENTAL HEALTH

ONE of the distinct improvements contained in the Mental Health Act, 1959, was the introduction of Mental Health Review Tribunals. Civil Liberties representatives have been kept busy over the past months visiting patients and appearing with them before the Tribunals. Several patients so helped have been released and are now living normal lives with their families.

While the Tribunals are working reasonably well, there were one or two aspects of their procedure which could usefully be improved and in December the Council on Tribunals received a deputation from the N.C.C.L. to discuss these matters. The following is a brief résumé of the points which were raised at that time.

- (1) The inadequacy of the reasons given by tribunals for their decisions—
- (2) Treating as confidential any report on the circumstances of the home offered to the patient—
- (3) The fact that tribunals make no enquiries of their own

beyond visiting the patient, and rely entirely upon what the hospital and the applicant have to say—

- (4) The lack of provision for informing an applicant on his representation of the existence of information which must be disclosed if asked for—
  - (5) The inclusion of allegations concerning a patient's past history in the hospital statement, allegations for which nobody present at the hearing can vouch—
  - (6) The appointment of medical superintendents to tribunals held in their own health districts—
  - (7) The lack of provision for finding representatives for applicants who cannot find one of their own—
  - (8) The variation in procedures adopted by each tribunal.
- These questions are being pursued.
- 

## HOMOSEXUAL LAW REFORM

PROSPECTS for homosexual law reform would seem to depend upon the outlook of a new Parliament, since this one has so signally failed to grasp the nettle. Soon after his appointment as Home Secretary, Mr. Brooke expressed the view that "this was not the time to loosen up", and his Department's negative attitude to Mr. Leo Abse's compromise Bill last year would appear to indicate a reluctance to make "piecemeal" reforms in preference to the full Wolfenden recommendations.

In a sense this is all to the good, because tinkering with this issue could make matters even more illogical and therefore no less unjust — they could not be more unjust — than they are now. We must, it seems, await the necessary degree of public and Parliamentary enlightenment before this overdue step to end legal discrimination against a handicapped minority can be taken.

Meanwhile, signs accumulate that the longer this law remains unreformed, the higher the toll of personal injustice and unwarranted invasions of individual liberty will mount. Since the New Year, a number of cases have drawn attention yet again to the objectionable methods which the police use — amounting, in some instances, to behaving as *agents provocateurs* — in apprehending men on indecency charges, and to the slenderness of the uncorroborated police evidence

which many courts seem to accept in these cases as sufficient for a conviction – evidence of a sort which might rightly be treated with far greater reserve in most other types of cases. Recently a youth was acquitted of manslaughter after his defending counsel had submitted that the action of a man, in whose company he had already spent several hours, in putting his arms round him and saying “give us a kiss” constituted such a forcible and atrocious crime that killing was “justifiable homicide”. The judge ruled that the homosexual advances were “as clear a case of provocation as it is possible to have,” and therefore reduced the charge from one of murder to manslaughter.

In the light of this type of case police provocation would be most unwise and improper.

Complaints have also been made in Parliament that men who go into prison not knowing what homosexuality is, are turned into homosexuals there by being compelled to mix with others.

All these things point to the futility of our present national attitude and reactions. Some homosexuals, it is true, are also criminally inclined; but implementation of the Wolfenden Report in its proposals to cease intervention in the relations between consenting adults is a necessary first step in eliminating social prejudice against those who constitute the great majority of homosexuals – men who, apart from their sexual nature, are in no sense criminals but ordinary and therefore useful members of the community. They are surely entitled to enjoy the same degree of civil liberty in their private lives as the rest of us.

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## THE RIGHTS OF A PATIENT

A PERSON need not feel powerless and without remedy in cases where it appears that doctors, hospital staff, dentists, opticians or others connected with medicine have been at fault in any way.

Broadly speaking, if there has been any breach of a legal duty, a legal remedy will be available, and, in the last resort the question of liability settled in Court; the difficulty – understandably – is to prove a breach of duty, in medical cases.



A medical practitioner who examines a person against his will and without statutory authority to do so, commits a trespass and the same would be true if an operation or part of an operation were performed without the patient's consent. Again, it may be negligence if a medical practitioner carries out an operation or a course of treatment without informing the patient of the risks involved. This might apply, for example, where patients were knowingly or unknowingly submitted to "guinea pig" treatment.

Where legal action is considered appropriate by a patient's legal advisers, legal aid may be available if the patient is able to satisfy the legal aid authorities that he has a case and his means fall within the limits laid down by law.

Briefly, all those concerned with treating the ills of patients must exercise a reasonable degree of skill and knowledge and a reasonable degree of care. What is reasonable must depend on the circumstances of each case, hence the difficulty of making generalisations on this subject. Where the person responsible for the alleged negligence is in the employ of a hospital, the hospital authority will be liable also, whether the patient is a private one or treated under the national health scheme. He must bear in mind that hospitals are responsible for consultants except usually where a private patient selects his own specialist.

The provision of general medical and dental services and pharmaceutical and supplementary ophthalmic services in every local health authority area in the country, is in the hands of executive councils. A reference may be made to the appropriate committee of the council, e.g., the medical committee in the case of a doctor, by a member of the public in respect of any complaint that a general medical practitioner, dentist, chemist or optician has failed to comply with the terms of the N.H.S. under which he practises. The committee must investigate the complaint and hear the complainant, and the executive council has wide powers to discipline and fine any person found guilty of a breach of duty. This particular procedure is available in addition to a person's legal remedies, and can be used where the act or omission complained of would not necessarily constitute a wrong for which legal action could be taken. Action must be taken within six weeks, but in the event of the complainant being dissatisfied with the council's decision or the hearing there may be a right of appeal to the High Court.

A similar procedure is not provided by the national health

service for complaints against a hospital and here the patient's appropriate course would be to communicate with the hospital management committee, responsible for the hospital, or the regional hospital board responsible for the hospitals in a particular area or in the case of teaching hospitals, the board of governors of the hospital. Overall responsibility for the administration of hospitals rests with the Ministry of Health.

A patient may select the doctor of his choice from the list of practitioners who practise in his locality under the N.H.S. subject to the doctor's consent and the limit of his number of patients. Copies of lists of medical practitioners available in a locality must be kept for inspection at the office of the local executive council and such other places, e.g., Citizen's Advice Bureaux, as appear to the council to be convenient for informing the public.

If the circumstances warrant, a doctor is bound to grant prescribed certificates such as claims to payment under the National Insurance Acts, claims for certain disability pensions, certificates to establish pregnancy and certificates to enable eyes to be tested; these certificates must be supplied free of charge.

A person may at any time apply for acceptance by a doctor notwithstanding that at the date of the application he is included in the list of another doctor. Written notice must be given by the patient to the local executive council of his intention to transfer and he must also forward his medical card. Otherwise, the consent of the doctor on whose list the patient is must be given and duly noted on his medical card. Conversely, a doctor may remove a patient from his list by giving seven days notice to his local executive council. If a person is removed in this way, he has no right of appeal but could, if he wished, notify the council of any complaints he may have against the doctor in the manner outlined above.

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## **“CRIMINAL” CASES**

IN 1962 written applications for advice and assistance from some 200 persons or organisations were dealt with in that section of the office loosely termed “Criminal.” In practice these were

not all strictly criminal, and included such varied matters as:—

- (1) Requests for advice from prisoners wishing to defend divorce proceedings, or institute civil proceedings.
- (2) Difficulties and alleged injustices over unemployment benefit and National Assistance.
- (3) Rights of pavement newsvendors and literature sellers.
- (4) Complaints of conditions and procedure at Broadmoor.
- (5) Problems arising re children taken from parents and in care of local Councils.
- (6) Complaints of unjustified refusal of legal aid.
- (7) Trade Unionist victimisations and appeals.
- (8) Injustices on hearings at Administrative Tribunals.

One of the more important and interesting current cases being handled with the aid of Solicitors and Counsel acting voluntarily is a possible appeal to the Privy Council from a very unsatisfactory criminal trial and conviction by the Jersey Court from which there is no regular avenue of appeal.

In most cases, however, no more can be done than to study the lengthy papers often submitted, make any appropriate enquiries, and write a letter of advice in reply, explaining if necessary why no more can be done. Applicants tend to come to the Council when they have exhausted all ordinary remedies and other sources of help. This belief that we have some magic power to put matters right when all else has failed is flattering, but somewhat wearing on our legal and other advisers.

Almost a quarter of our cases are complaints against the police. Generally speaking, only when the police officer is identified, and there is independent evidence, can anything be done. Even then, of course, the position remains that there is no satisfactory procedure for investigation of complaints against the police.

The Home Office continues to stonewall on practically all applications and petitions. This experience, we gather, is common to all organisations, M.P.s, etc., having occasion to deal with the Home Office.

## PRISONS

The twin evils of overcrowded prisons and long sentences continue to be of concern, although the proposed abolition of Preventive Detention and the release of some prisoners is a small step forward. On March 12th, speaking in a Commons debate on the Prison Commissioners Dissolution Order, Mr. Brooke, the Home Secretary, said that he wanted to bring

to an end prisoners sleeping three to a cell, and to get every prisoner doing a full working week. How people could be prevented from becoming criminals, said Mr. Brooke, how they were treated in prison, and how they were helped to settle down when they got outside, were now regarded as three facets of the same problem. These are all admirable sentiments, but with over 30,000 now crowding our prisons and costing some £60 million per year, it remains to be seen whether action will follow words.

Apart from complaints against the police, our most frequent source of complaint is by dissatisfied defendants (in criminal and civil matters) who allege that their case was not properly prepared and presented by legal aid solicitors and counsel, and/or that their requests that their wives or other witnesses be called were ignored. Many of these result from natural dissatisfaction at an unfavourable verdict or from misunderstanding of the technical rules of evidence, but our feeling that there are still many cases of "second class" justice for those without means, is reinforced by *The Times* report (15.3.63) of an application to the Court of Criminal Appeal by Albert Gatt for leave to appeal against conviction of causing grievous bodily harm. Mr. Sebag Shaw, Q.C., for Gatt, said:

"The grounds of the application for leave to appeal against conviction were that, owing to inadequate preparation for, and presentation of the case at trial a miscarriage of justice had occurred. There had been a lack of communication between the applicant and the solicitors who had been appointed under a certificate for legal aid, and witnesses who should have given evidence had not been called. There was also an application to this Court for leave to call witnesses.

"The applicant was half Italian and half Maltese with a good command of English. His wife was Italian and her command of English was poor. She attended the Central Criminal Court throughout the trial, nursing another child outside in the court corridor, and was desperately anxious to be called to give evidence. She persistently asked when she was to be called. She was not called and the first she knew about her not being called was when she learnt that he had been found Guilty and sentenced to six years' imprisonment.

"Counsel then appearing for Gatt had taken the decision not to call her without consulting the applicant or his instructing solicitors."

The Court gave leave to appeal and the Lord Chief Justice

remarked that "legal aid in some cases could be a snare if the solicitor had so much work to do that he could not fully aid the prisoner". Similar cases which undoubtedly exist often demand more funds and investigation than the Council is in a position to provide.

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## LEGAL AID

LEGAL AID is becoming increasingly available.

The Lord Chief Justice, in a speech to Magistrates, stated: "There are occasions when a prisoner can conduct his defence or make a plea in mitigation more effectively in person and without legal representation. But such a case is rare. In almost every case the interests of the prisoner can only be safeguarded by legal representation and, as you know, subject to a means qualification, he is entitled to it. . . . A defence certificate may be granted by committing justices or by Quarter Sessions whenever it is desirable in the interests of justice that he should have legal aid . . . such a defence certificate entitles him to have the services of solicitor *and* counsel. There is also power at the trial for Quarter Sessions to assign him counsel only ("dock brief") to conduct his defence or plea. It is however clear that this latter power, to assign counsel only, is intended only for cases where the prisoner has never applied for a defence certificate at all or has applied and either has been refused or his application has been made too late to be dealt with in advance of the trial . . . . In other words, the power to assign counsel only is . . . in the nature of an emergency power alone.

" . . . If there is any doubt whether it is desirable in the interests of justice that a prisoner should have legal aid that doubt is to be resolved in favour of the prisoner . . . . Even in the case of pleas of guilty there will seldom be a case where it (legal aid) is not desirable in the interests of justice."

Some Justices are still reluctant to grant legal aid for summary or committal proceedings, or where a plea of guilty is likely, but the wide publicity secured for the Lord Chief Justice's "guidance" should make it far more difficult for legal aid to be refused.

Despite the "guidance," however, Mr. Seaton, chairman of

London Sessions is quoted in *The Times* of 3rd April as saying: "Three counsel are solemnly charged up to this court and I consider it is an abuse of the whole system.

"I do think this matter should be looked into. It is ridiculous dishing out legal aid certificates in this way. Somebody has got to pay for it. The rate-payers have enough to pay for in all conscience and this sort of thing is an absolute disgrace."

The furtherance of justice and the provision of legal representation can never be a "disgrace" – whoever pays the bill. The whole principle of justice must be that it is independent of financial considerations.

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## NORTHERN IRELAND

NORTHERN IRELAND, though part of the United Kingdom, differs from the other parts in that it has a regional parliament and a regional government, with limited powers devolved from the U.K. Parliament. The remaining powers are reserved to the U.K. Parliament and Government, the U.K. Parliament also retaining power to override the N. Ireland Parliament within the latter's devolved field of authority. This overriding power has never been overtly used.

This "state within a state" derives from an Act of the Westminster Parliament, the Government of Ireland Act, 1920. This, as amended, provides N. Ireland with another feature, unique in the U.K., a written constitution which the courts are prepared to interpret. This they have done on a number of occasions, particularly in relation to the legislative powers of the N. Ireland Parliament.

A third peculiarity of this devolution is the three-tiered electoral system to be found in N. Ireland. These tiers are:

(1) **The Top (U.K.) Tier.** By S.19 of the Government of Ireland Act, 1920, as amended, Northern Ireland elects twelve members to the Commons of the U.K. Parliament at Westminster. All aspects of the law governing these elections, including candidature, franchise, and procedure, are the same as in Britain and they are provided for by U.K., not N. Ireland, enactments.

(2) **The Intermediate (N. Ireland Parliament) Tier.** In addition to its representation at Westminster, N. Ireland elects its own local Parliament of two Houses, Commons and

Senate. Provision for this is made in the Government of Ireland Act, 1920; but franchise, candidature, procedure, etc., are governed by enactments of the N. Ireland Parliament, and not by U.K. law.

**(3) The Bottom (Local Government) Tier.** Local Government in N. Ireland is organised on much the same lines as in England and Wales; but without parish councils. Elections to the various types of local government bodies are governed by N. Ireland, and not U.K. law. This includes franchise, candidature and procedure.

There have been many complaints made about the gerrymandering of elections in Northern Ireland and many people in England are surprised when they learn that there is still plural voting in Ulster. Enquiries in Northern Ireland and discussion with persons of all parties and interests leads to the conclusion that perhaps one of the most essential reforms in Northern Ireland would be of the electoral system.

A full study is therefore being undertaken of each of the three tiers of the system and its effect on civil liberty in Northern Ireland. This study will be as complete as possible and will include suggestions based on the analysis of areas and procedures. A report will be published during 1963 or early 1964.

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## RELIGION AND THE LAW

THOSE without a religion do not, legally, enjoy free speech. The 1698 Blasphemy Act, still on the Statute Book, makes it an offence to "by writing, printing, teaching or advised speaking, deny the Christian religion to be true, or the Holy Scriptures of the Old and New Testament to be of divine authority." True, it is unlikely today that anybody would be prosecuted under this Act, but he could be; and contracts to let halls to secularist meetings could be voided.

Men in the Navy are not only forbidden to express their own opinions on religious matters, but are enjoined to snoop on their colleagues. The Queen's Regulations and Admiralty Instructions for the Government of Her Majesty's Naval Service, 1953, No. 1827, states: "All officers and men . . . are at all times to exert their influence against all that tends to the disparagement of religion and the encouragement of vice and immorality."

The implication that religious scepticism and immorality are somehow associated finds its way, too, into our law courts. Despite the Evidence Further Amendment Act of 1869 and Bradlaugh's Oaths Act of 1888, it is not unknown for chairmen of sessions and judges to warn juries against accepting the evidence of anyone who affirms instead of taking the oath.

In their professional lives unbelievers suffer many disadvantages. In the field of social work, particularly in probation, youth and prison services, candidates are quizzed on their religious beliefs and observances, and are unlikely to be accepted if they frankly admit they have none. The 1944 Education Act lays down that the day is to start with "collective worship" and "undenominational" religious education is to be regularly given. Individual teachers may, of course, opt out, but this creates illwill; and it is virtually certain that no teacher who is not prepared to attend and indeed conduct collective worship will be promoted to the position of head.

The B.B.C., which is supported by the licence fees of all, allows considerable time for religious broadcasts, but unbelievers enjoy no special radio programmes. When wishing to organise meeting places to satisfy social needs analogous to those met by churches, Humanists find that the absence of advantageous terms for acquiring land and of full taxation and rating exemption, such as are enjoyed by religious organisations, is a serious handicap. They cannot, should they wish, establish State-maintained voluntary schools; and though they have the right to withdraw a child from religious instruction in State Schools, they are often unwilling to do so for fear that the child will be embarrassed or victimised.

This kind of discrimination is one which is less in the public eye, and little is therefore known of the results of the discrimination.

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## CIVIL LIBERTY MISCELLANY

|                                             |                                                                                                                                                                                                                                               |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Magistrates<br/>Courts and<br/>Fines</b> | PEOPLE fined on minor charges at Magistrates Courts are sometimes faced with imprisonment because they have no ready cash. There have been a number of cases where the defendant has not been allowed "time to pay" and the offer of a cheque |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



has been refused. In such cases the person fined is held until friends or relatives arrive with the sum required. Defendants are told that the court cannot accept cheques. At a time when salaries are payable by cheque the courts too should be brought up to date.

The question of costs is also causing some concern. Officially costs are left to the "reasonable discretion" of the Magistrate and should not be part of the penalty for the offence. However, in some Magistrates Courts, it is difficult to establish what relation the costs charged bear to the actual cost of the court proceedings – as for instance where a defendant pleads guilty to an offence carrying a fine of £2 and only the briefest of evidence is necessary, and yet costs of 5 or 7 guineas are imposed. In such cases it would appear that the Magistrate is extending the penalty unnecessarily.

The All Party Parliamentary Civil Liberties Group is taking this question further.

**Civil Liberty and the Services** In 1963 two young airmen wrote a letter to *Peace News* suggesting that those who shared their views about Nuclear Disarmament should contact them with a view to forming a C.N.D. group in the R.A.F. They signed the letter with their own names and made no attempt to hide their convictions or intentions. They were charged under the Air Force Act, with conduct liable to be disruptive of Air Force discipline and were sentenced to eight months imprisonment and discharge with ignominy. The sentence was later reduced to four months.

Both the boys were serving under 12-year contracts signed when they volunteered for the services at the age of 16 or 17. Their convictions had undergone a change during the two years of their service and they had become persuaded of the immorality of using nuclear weapons. In these circumstances they could hardly remain in the Air Force and still remain true to their consciences. For that reason, if for no other, their release would have been justified. If conscientious objection is permitted in war time then surely, in a period of peace provision should be made for such cases. Since these two cases another man has been sentenced to one year's imprisonment for similar reasons.

The Parliamentary Civil Liberties group discussed this problem in March 1963, and decided to seek an interview with

the appropriate member of the Government to discuss the whole situation.

**The Press, the Public and Privilege** The Vassall Tribunal resulted in two journalists going to prison for relatively long sentences for refusing to reveal their sources of information. The Press Council has still not invited laymen to represent the interests of the public on the Council. Relations between the Press and the public have probably never been worse.

In Parliament the question of the right of journalists to protect their informants has been discussed both in and out of the Chamber. The newspapers have devoted columns to analysing the problem and calling for appropriate action in defence of the rights of journalists. We cannot help feeling that if the Press defended the principles of civil liberty at all levels with the vigour with which they protect their own, the situation in this country might be considerably improved.

However, the issue is important. There are grave dangers involved in providing special privileges for any group of society. Doctors and priests have no legal privilege although their professions necessarily entail their receiving and handling much confidential material. In fact, it is very rare that situations arise where the courts, tribunals or other instruments of authority force journalists or anyone else into betraying confidences. There was a case in 1938 where a journalist was fined, but in the Bank Rate Tribunal hearing journalists revealed their sources apparently without more than a second thought. There was, it seemed, no suggestion in the Press at the time that they should have done otherwise.

Civil Liberties depend on a free Press but the press must provide itself with standards and principles if it is to be effective and respected. Like other matters of life, it may on occasion be necessary to suffer for one's principles: but equally the Courts and Tribunals should use their powers with real discretion and their rights of enforcement with strict control.

**Official Secrets** When a prison visitor or a warder sends Civil Liberties information he may be in breach of the Official Secrets Act. Many of the stories which come to the Press from Civil Servants or police, or other sources, may involve a breach of the law. The information does not in fact relate to secrets and the Press is not charged with spying.

Miss Barbara Fell is serving two years in prison for passing information to a foreign diplomat with whom she was friendly. The information was confidential, but no harm was done to the State. Elsewhere in this booklet we refer to a circular which equally contains nothing which would help an enemy in peace or in war, but is still headed "restricted" – although circulated to thousands of Civil Servants.

The Committee of 100 saw six of its organisers imprisoned in 1962 under the Official Secrets Act, although again no secrets were involved and the public had previously been invited to visit the airfields where the demonstrators were to sit down.

Surely the time has come to separate domestic and political grievances from Official Secrets. Clandestine spying is obviously totally different from public demonstrations of protest and the Law should so recognise it. One hardly needs to be a civil libertarian to have grave doubts about the reported statement of the Lord Chief Justice that "your duty in the ordinary way as a citizen is to put the interest of the State above everything."

**Adoption**      An unwanted baby may have no name, no parents, no home . . . but as far as the law is concerned, it has a religion.

No mother may offer her child for adoption through the courts without first signing a form of consent, on which she is asked to state her religion. And in practice this means that where the mother has no particular religious beliefs a preference for the Church of England often seems to be noted. It is virtually unknown for a child to be registered as of agnostic or atheist parents.

One result is that whilst there are twelve times more prospective parents than babies registered for adoption, countless children remain in children's homes. Catholic children, in particular, are often not placed.

Many couples who would welcome a child are turned down by one adoption society after another because they have no accepted religious faith. The majority of these societies are religious organisations – and those which are not formally linked to any church sometimes make religious provisions. One couple, who admitted that they had no religious beliefs, were given the care of a baby after signing a declaration that they would have it baptised and brought up as a member of the Church. Their complaint later was that whilst they had

kept their promise, the adoption authorities had never shown any interest in the child's religious upbringing and had not even checked to see whether it was being carried out. These parents drew the conclusion that the regulations were "nothing more than hypocrisy."

Only where there is third party or private adoption can these rules be evaded. "Civil Liberties" is anxious to see that they are changed.

**Trades Unions and the Law** The courts have had several trade union cases over the past year. In some cases members have sued their unions, and it has been stated by the courts that the unions are liable to legal action by their members.

Decisions regarding pickets, and the use of police to limit the number of persons entitled to picket during industrial disputes have also caused some concern in trade union circles. A study of this subject is being undertaken for the N.C.C.L. and the revised edition of the Handbook of Citizens' Rights to be published later in 1963 will bring up to date legal experience in this field.

## ABOUT THE NATIONAL COUNCIL FOR CIVIL LIBERTIES

The N.C.C.L. was founded in 1934 with the object of assisting in the maintenance of civil liberties, including freedom of speech, propaganda and assembly. The Council is non-party and non-denominational.

Its affairs are managed by an Executive Committee, elected by the Annual General Meeting, which meets monthly. There is a small permanent staff and a team of voluntary part-time workers and advisers specialising in different fields of the Council's work.

It is financed by its membership, affiliation fees, and by occasional appeals. If you are not a member please complete and return the form below. A Banker's Order is printed overleaf, its use greatly facilitates clerical work. If you are a member, ask someone else to send it in.

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NATIONAL COUNCIL FOR CIVIL LIBERTIES,  
4 CAMDEN HIGH STREET, LONDON, N.W.1. *Telephone: EUSton 2544*

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(Minimum subscription £1 per annum, with the exception of students,  
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\* Please send me details of affiliation Rates for organisations wishing  
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\* Delete whichever does not apply.

## LEGACIES TO THE COUNCIL

The Council has from time to time been relieved in its financial struggle by legacies made by members in their wills. This is a course which may not have occurred to all who may be able to adopt it.

If you can leave us a legacy either directly or after a life interest to some other person, will you make your Will accordingly? And suggest this also to your friends.

Our correct title is:

**The National Council for Civil Liberties,**  
of 4 Camden High Street, London, N.W.1.

We shall be happy to give advice on the best form in which your wishes can be carried into effect.

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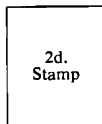
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